



Semiannual
Report to Congress:
Termination of the
National Security Personnel System

October 2010

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Introduction

This report is being provided pursuant to the National Defense Authorization Act for Fiscal Year 2010, Public Law 111-84, section 1113(e)(1):

REPORTS.—The Secretary of Defense shall provide a report to the covered committees (as defined by subsection (g)(6)) —

(1) no later than 6 months after the date of enactment of this Act, on the initial steps being taken to reclassify positions from the NSPS [National Security Personnel System] and the initial conversion plan to begin converting employees from the NSPS, which information shall be supplemented by reports describing the progress of the conversion process which shall be submitted to the same committees on a semiannual basis

The covered committees as defined by subsection (g)(6) to receive the report are:

DEFINITIONS.—For purposes of this subsection, the term "covered committees" means—

- (A) the Committees on Armed Services of the Senate and the House of Representatives;
- (B) the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (C) the Committee on Oversight and Government Reform of the House of Representatives.

In April 2010, DoD reported on initial steps for the reclassification of NSPS positions and the overarching plan for transitioning employees and positions from NSPS. The initial report is available on the NSPS web site: <http://www.cpms.osd.mil/nsps>.

This is the first of the reports that describe the progress of the conversion process to be submitted semiannually to the covered committees until all conversions are completed.

Executive Summary

The National Defense Authorization Act for Fiscal Year 2010 (NDAA 2010), Public Law 111-84, enacted on October 28, 2009, repealed the statutory authority for the National Security Personnel System (NSPS) and requires the Department of Defense (DoD) to convert all civilian employees and positions from NSPS to the appropriate statutory non-NSPS pay system by not later than January 1, 2012, with no loss of or decrease in pay upon transition from NSPS as a result of NSPS repeal. The statutory pay and personnel system applicable to conversions is the system that last applied to NSPS employees or positions (as appropriate) before NSPS applied or that would have applied if NSPS had never been established.

The repeal of the statutory authority for NSPS precipitated an unprecedented effort – one of the largest scale transitions from one Federal personnel system to another. Approximately 226,000 DoD civilian employees were covered by NSPS before the system's drawdown began, a larger workforce than any Executive Agency with the exception of the Department of Veterans' Affairs.

In April 2010, DoD reported on initial steps for the reclassification of NSPS positions and the overarching plan for transitioning employees and positions from NSPS. The initial report is available on the NSPS website: <http://www.cpms.osd.mil/nsps>.

The Department planned for the orderly termination of NSPS and transition of employees and positions with the least disruption to the mission and hardship to employees. Since approximately 75 percent of NSPS employees were in positions derived from the General Schedule (GS) system, the Department's goal was to transition most employees back to GS during Fiscal Year 2010 (FY2010). The Government-wide rules of the GS classification and pay system have been followed in determining placements and setting pay upon transition from NSPS. With roughly 172,000 NSPS employees rejoining 307,000 GS employees whose jobs were not under NSPS, the Department is mindful that the Government-wide pay and personnel system rules and standards must be applied equitably.

During FY2010, 171,985 employees were converted from NSPS to GS. Seventy-two (72) percent (124,200) received an increase in pay to place them on a step of their assigned GS grade, as required under GS pay setting rules. The average increase for these employees was \$1,454. Twenty-eight (28) percent of transitioned employees (47,785) received no increase in pay upon conversion to GS because their final NSPS salary matched a step of their assigned GS grade (7 percent) or exceeded the maximum rate of their assigned GS grade, in which case they were placed on pay retention (21 percent) in conformance with the NDAA 2010 provision that no employee suffer a loss of or decrease in pay as a result of transition from NSPS due to NSPS repeal. As of October 1, 2010, five (5) appeals of the GS classification of positions to which employees were assigned upon transition have been filed. Of that number, no appeals have resulted in the position being upgraded, one (1) resulted in no change, and four (4) are pending final review.

This is the first of the reports that describe the progress of the conversion process to be submitted semiannually to the covered committees until all conversions are completed. This report covers the progress on conversions to the GS system. Subsequent reports will include information about the status of NSPS conversions to other statutory pay and personnel systems as required by NDAA 2010.

Report

The National Defense Authorization Act for Fiscal Year 2010 (NDAA 2010) repealed the statutory authority for the National Security Personnel System (NSPS) and directed the Secretary of Defense to take necessary actions to provide, beginning no later than 6 months after the date of enactment, for the orderly termination of NSPS and conversion of all NSPS employees and positions from NSPS by not later than January 1, 2012.

With respect to NSPS termination, NDAA 2010 requires that—

- NSPS may not be expanded beyond the organizational and functional units that were covered under the system as of March 1, 2009.
- All NSPS employees and positions must be transitioned out of NSPS to the statutory pay system and all other aspects of the personnel system that last applied to the employee or position (as the case may be) before NSPS, or to the system that would have applied if NSPS had never been established, whichever is applicable.
- Employees will suffer no loss of or decrease in pay upon transition from NSPS due to NSPS termination.
- To the extent practicable during the NSPS transition period¹, appointments to vacant positions under NSPS are subject to the pay and personnel system that would apply upon the transition of the individual or position from NSPS.
- The NSPS rules in effect on the day before enactment of NDAA 2010 remain in effect for covered organizations and employees pending their transition from NSPS and may not be modified except to implement the provisions of NDAA 2010.
- During the transition period, NSPS employees with an NSPS rating above Level 1 (Unacceptable) or without an NSPS performance rating will receive the full annual general pay increase and comparable locality payment in the same manner and to the same extent as employees under the General Schedule (GS) system.

This report is required to describe the progress of the conversion process.

The Department's overall goals and objectives for transition from NSPS have been to:

- 1) Transition most employees and organizations from NSPS during Fiscal Year 2010 (FY2010).
- 2) Transition all NSPS employees and positions from NSPS to successor statutory pay and personnel systems in conformance with applicable statutory and regulatory requirements.

¹ The term "NSPS transition period" is defined in NDAA 2010, subsection 1113(c)(5), as the period beginning on the date of enactment of NDAA 2010 (October 28, 2009) and ending on January 1, 2012.

- 3) Proactively communicate the Department's commitment to accomplishing the transition with the least adverse impact to the mission and workforce.
- 4) Inform and educate the workforce regarding transition processes, procedures, timelines, and requirements.
- 5) Support the leadership's role in managing NSPS termination.
- 6) Demonstrate openness and transparency in the management and processes related to the transition from NSPS to non-NSPS statutory pay and personnel systems.

The repeal of the statutory authority for NSPS precipitated an unprecedented effort – one of the largest scale transitions from one Federal personnel system to another (over 226,000 employees will transition from NSPS). The Under Secretary of Defense for Personnel and Readiness is responsible for the transition. The transition is managed by the NSPS Transition Office (NSPSTO), and transition activities are carried out by the DoD Components.²

The senior leadership of the Department has opted to convert the workforce to the applicable prior pay and personnel system as quickly as it is feasible to do. For most employees and positions rooted in the General Schedule (GS) classification and pay system, that was FY 2010. This approach allays any concerns that the Department is attempting to keep NSPS in place for a fourth full year of operation.

The NSPSTO recognized the need to work closely with key stakeholders, including representatives from the DoD Components, Office of Personnel Management (OPM), Department of State, and automation experts to ensure the orderly transition of employees and positions from NSPS. For the transition to the GS system, the NSPSTO convened functional working groups to establish transition requirements, identify differences between the NSPS and GS pay and personnel systems, develop or propose solutions to resolve problems related to the classification of positions and the pay and assignment of employees, identify categories of positions or employees to be excluded from transition during FY2010, and document working group conclusions. The result was enterprise-wide transition guidance on making appointments during the NSPS transition period, position classification, pay setting, staffing, and managing performance that is available to all on the NSPS website: <http://www.cpms.osd.mil/nsps/>. The NSPSTO also continues to meet biweekly with functional experts within each of the DoD Components to provide a forum for sharing information, questions and answers, and updated or modified enterprise-wide guidance resulting from transition experiences.

Online training and information through online toolkits are available on the NSPS website to support employee understanding of the transition from NSPS to GS. Transition training

² DoD Components are the Military Departments, Combatant Commands, and DoD Fourth Estate Entities. The DoD Fourth Estate consists of the Office of the Secretary of Defense, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in DoD that are not in the Military Departments or the Combatant Commands. For transition purposes, Combatant Commands are covered by Military Department plans.

materials focus on the GS system and provide orientation and general information on topics such as roles and responsibilities for performance management and position classification. The basic courses on the NSPS website are supplemented at the DoD Component level to provide more specific information regarding transition processes and procedures. One of our enterprise web courses, *GS-101*, has been recognized by John Palguta, Vice President for Policy at the nonprofit Partnership for Public Service, in a Government Executive magazine interview. In the interview, Mr. Palguta recommended *GS-101* for all employees new to the GS system in the Federal government, noting that it would be cost-effective for OPM to adopt it for Government-wide use.

The NSPSTO Director has participated in numerous town halls, speaking engagements, press briefings and interviews, meetings with Congressional staff, and other informational fora to update audiences about the NSPS transition, respond to questions, and assure employees, the public, and Capitol Hill are kept informed of transition events and activities. The Director also initiated meetings with national unions representing approximately 900 employees who organized after conversion to NSPS, to discuss transition issues and answer questions. Local collective bargaining obligations are being met as these employees transition from NSPS to GS.

The Department converted 171,985 employees (approximately 76 percent of the NSPS population) to the GS pay and personnel system during FY2010. The remaining 24 percent will transition to other statutory pay and personnel systems beginning in spring 2011. Progress of conversions to those systems will be provided in future semiannual reports. All conversions from NSPS will be completed by the statutory deadline of January 1, 2012.

Government-wide rules for the GS system issued by OPM to implement personnel authorities in title 5, United States Code (5 U.S.C.) are applicable to the transition to GS from NSPS. For affected employees, their permanent duties and responsibilities at the time of transition were evaluated using OPM GS classification criteria (standards and guides), and the employee assigned a GS title, series, and grade based on the classification determination. Position classification has required a significant level of effort by supervisors and human resources (HR) specialists, as the broad banded NSPS and the 15-grade GS system are fundamentally different. The classification load was tempered somewhat by the fact that many NSPS employees were on position descriptions carried over from the prior classification, and many new NSPS descriptions referenced the equivalent GS classification. Notwithstanding, classification post-NSPS may differ from classification before NSPS; e.g., if there were a significant change in duties requiring a new position description or a change in the GS classification criteria, or if the employee were a trainee.

Employees were notified of their new classification before conversion and have the right to file a classification appeal when they convert from NSPS and are officially assigned to the GS position description. The criteria used to adjudicate a classification appeal of their positions are the Government-wide classification standards and guidance published by OPM. We recommend in our *NSPS to GS Transition Guide*, posted on the NSPS transition website, that employees who are concerned with the classification of their positions speak first to their supervisors as the management officials responsible for the assignment of work. The on-line guide includes links to DoD and OPM fact sheets on classification appeals. These fact sheets provide information on the appeals process and what classification aspects may or may not be appealed. Servicing HR

specialists are also available to explain the process to employees and supervisors. As of October 1, 2010, there have been five (5) classification appeals filed. Of that number, none was sustained, one (1) resulted in no change, and four (4) are pending review.

Government-wide rules are also used for setting the pay of NSPS employees transitioning to GS. These rules require that a GS employee's salary be on a step of the assigned GS grade. Section 1113(c)(1) of NDAA 2010 mandates that no employee will suffer a loss of or decrease in pay upon transition from NSPS as a result of NSPS repeal. Therefore, upon transition, each NSPS employee's pay is set on a step of his or her grade (determined by application of the GS classification criteria) that is no lower than his or her NSPS salary at the time of transition. If the NSPS salary is between two steps, the employee is placed on the higher step. If the NSPS salary is below the lowest rate of the assigned GS grade, the employee's salary is set on step one of the GS grade. Of the 171,985 employees who were transitioned to GS during FY2010 as a result of NSPS termination, 72 percent (124,200) received an increase in salary to place them on a step of their assigned GS grade, with the average increase being \$1,454. Seven (7) percent of transitioned employees (12,668) did not receive an increase, as their NSPS salary matched a step of the assigned GS grade.

Some employees earn more under NSPS than the maximum rate of their assigned GS grade. GS pay retention authority (5 U.S.C. 5363, as implemented by OPM regulations at 5 CFR part 536) allows DoD to comply with the NDAA 2010 requirement that no employees suffer a loss of or decrease in pay upon transition from NSPS due to NSPS repeal. When the employee's NSPS adjusted salary exceeds the maximum rate (step 10) of his or her GS grade, the employee is placed on pay retention to comply with section 1113(c)(1) of NDAA 2010. In addition, due to the statutory language, employees may retain a rate that at the time of transition to GS exceeds 150 percent of step 10 of the assigned grade, Level IV of the Executive schedule (EX-IV) (not to exceed 5 percent above EX-IV since this is the maximum rate for certain NSPS pay bands), and a rate earned while on a temporary or term appointment. These protections are specific to NSPS transition and do not apply to other employees.

Among all employees converted from NSPS during the GS system transitions in FY2010, 21 percent (35,117) were placed on pay retention. Some of those have moved off pay retention to other positions; some have left. Altogether as of September 30, 2010, 5.3 percent (38,607) of 728,173 DoD appropriated fund employees were on pay retention: 33,317 (4.6 percent) due to NSPS conversion, and 5,290 (0.7 percent) for other reasons like Base Realignment and Closure action, reduction in force, or directed reassignment from a job under special rates.

The Department continues to monitor transition-related matters. The NSPSTO is conducting a final evaluation of NSPS. During on-site visits to representative organizations, the team is inquiring about GS transition-out preparations, challenges, and workforce attitudes toward being out of NSPS. A report on transition-out matters is planned for winter FY2011. Findings and insights will be included in a future report to the covered committees, along with information about the progress of NSPS transitions to other statutory pay and personnel systems.

